

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PATRICIA GONZALEZ and JENNIFER
GONZALEZ, individually and as co-administrators
of the Estate of KENNY LAZO,

Plaintiffs,

**Docket No.: CV-09-1023
(ST)**

-against-

COUNTY OF SUFFOLK, SUFFOLK POLICE
DEPARTMENT, POLICE COMMISSIONER
RICHARD DORMER, in his individual and
official capacity, POLICE OFFICER JOHN
NEWTON, in his individual and official capacity,
POLICE OFFICER JAMES SCIMONE, in his
individual and official capacity, POLICE
OFFICER WILLIAM JUDGE, in his individual
and official capacity, POLICE OFFICER
CHRISTOPHER TALT, in his individual and
official capacity, POLICE OFFICER JOSEPH
LINK, in his individual and official capacity,
COUNTY OF SUFFOLK OFFICE OF DISTRICT
ATTORNEY, SUFFOLK COUNTY DISTRICT
ATTORNEY THOMAS SPOTA, in his individual
and official capacity, ASST. DISTRICT
ATTORNEY JOHN B. COLLINS, in his
individual and official capacity, and "JOHN AND
JANE DOES 1-10" representing as yet unknown
and unidentified members of the Office of the
Suffolk County District Attorney (all in their
individual and official capacities as employees of
the Office of Suffolk County District Attorney),

Defendants.

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PLAINTIFF'S PROPOSED VOIR DIRE

Demographic Information Regarding Jurors

Where does each juror live?

Describe the racial demographics of the neighborhood where each juror resides.

Do the jurors have children? What are the ages of the children? And what schools do they attend?

What is the level of education of the jurors? If the jurors attended college, what colleges?

Do jurors hold a degree or any certificates in education?

What is the work experience of jurors?

What is the marital status of each juror?

What is the work experience and position of the spouse of each juror?

Of jurors' children who are of working age, what are their work experiences and professions?

Are any of the children police officers or employees of the County of Suffolk?

What newspapers and or publications does each juror read?

Are any jurors active in any political parties?

Are any jurors officers or officials in any political party?

Are any of the jurors employed by the County of Suffolk or any agency of the County of Suffolk?

Are any of the jurors employed by any political party?

Are any of the jurors employed by any governmental agency?

Prior Jury Service

Have any jurors served in a civil case?

Have any jurors served in a criminal case?

Were any of the jurors jury foremen/forewomen?

Result of trials: Civil Verdict (for Plaintiff/for Defendant/no verdict); Criminal Verdict (acquittal/guilty/no verdict) Will anything about your involvement in that case affect the juror's ability to sit in this case?

Experience with Justice System

Have the jurors ever been a witnesses?

Have the jurors ever been investigators?

Have the jurors ever been parties to a litigation? If so state specifically how involved?

Have the jurors ever been victims of crimes?

Has a member of your family/close friend ever been a victim of a crime?

Do jurors have friends or relatives who are attorneys?

Have jurors ever been members of grand jury associations?

Have jurors ever been members of grand juries?

Have jurors ever belonged to unions?

Health Concerns

Does any juror have any health problems that would make it difficult for him/her to be a juror in this case?

Does any juror have eyesight problems? Does any of the jurors have hearing problems?

Are any of the jurors suffering from physical problems, which make it difficult to sit for any extended period of time?

Are any of the jurors suffering any emotional problems/situations, which would make it difficult for the juror to concentrate on someone else's problems, and to sit and listen to evidence for a period of time?

Personal Problems

Does any juror have personal problems, such as pending divorce, bankruptcy, etc., which would make it difficult to sit and consider evidence and to concentrate for a period of time?

Are there any illnesses in the family/hospitalizations or other such known situations which would be distracting to a juror and therefore make it difficult to concentrate and consider evidence in this case?

Relationship with Persons in the Case/Potential Witnesses/Counsel

The following witnesses may be called in this case:

1. Jennifer Gonzalez
2. Patricia Gonzalez
3. Idlefonso Lazo
4. Eric Mathius Melendez
5. Eric Melendez
6. P. O. John Newton
7. P. O. James Scimone

8. P. O. William Judge
9. P. O. Christopher Talt
10. P. O. Joseph Link
11. John Collins
12. Thomas Spota, District Attorney, County of Suffolk
13. Richard Dormer, Police Commissioner, County of Suffolk.
14. Lesley Brewster
15. John Baratta
16. Frank Morrow
17. Karen Lajara:
18. Robert Brown
19. Police Officer Scott Welshimer
20. Police Officer Paula Donnelly
21. Police Officer Robert Williams
22. Police Officer Kit Gabrielsen
23. Police Officer Vincent O'Leary
24. Police Officer Angel Rivera
25. Police Officer Thomas Wisely
26. Police Officer John Diffley
27. Police Officer Alton Purdie
28. Police Officer John Van Wagar
29. Police Officer Walter Justincie
30. Police Officer Thomas Crist
31. Police Officer Andrew Larocca
32. Police Officer James Luppens
33. Police Officer Robert Larkin
34. Police Officer Christopher Krucher
35. Police Officer Patrick Portella
36. Police Officer William Zambito
37. Police Officer Mark Broderick
38. Police Officer Robert Koerber
39. Police Officer David Friedrich
40. Police Officer Lola Quesada
41. Police Officer Kathleen Cotter
42. Police Officer Joseph Zurl
43. Police Officer Peter Hansen
44. Police Officer Phil Frendo
45. Police Officer William Rohrer
46. Police Officer Gerald McAlvin
47. Police Officer Joseph Capolino
48. Police Officer Christopher Hatton
49. Police Officer David Ferrara
50. Vorathip Chinookoswong
51. Dr. Yvonne Milewski
52. Dr. Matthew Rutman
53. Dr. Mark Auerbach
54. Donna Rivera, R.N.

- 55. M. Valladares, R.N.
- 56. Rose Petro, R.N.
- 57. P. Silhan, R.N.
- 58. Bryan Bobrowsky
- 59. Chief Joseph Kornahrens
- 60. Denise Merrifield
- 61. Tim Longo
- 62. Michael J. Vernarelli
- 63. Zhongxue Hua
- 64. Kenny Lazo, Jr.

Does any juror know or recognize the individuals and/or their names which I have just listed for you?

The attorneys for the Plaintiff are the LAW OFFICES OF FREDERICK K. BREWINGTON, by: Frederick K. Brewington, Esq. and Oscar Holt III, Esq.

The attorneys for Defendants are OFFICE OF THE SUFFOLK COUNTY ATTORNEY, by: Marc A. Lindemann, Esq.

Do any of the jurors know any of these attorneys? Have any jurors ever heard of any these attorneys?

Do any of the jurors know anyone who has ever worked for any of the attorneys or been a client of these attorneys?

Legal Matters

Do the jurors understand that this is a civil case and not a criminal case and that no one will go to prison as a consequence of the verdict herein?

On the other hand, do the jurors understand that the Plaintiff is asking to obtain money for damages done to her?

Can the jurors apply the law as given by the Judge in this case irrespective of what law may have been given to the jurors in any other case in which they may have served?

Does any juror own stock in any casualty insurance company?

Has any juror ever worked for a casualty insurance company?

Juror's Confidence in Own Fairness

Is there anything about this case that bothers you in any way?

If you are chosen in this case, do you know of any reason why you could not sit as an impartial juror?

If the situation were turned around would you want someone with the frame of mind that you presently have about what you've heard about this case sitting as a juror?

If you are chosen as a juror, will you stand by your own opinion based on the evidence that comes into the trial?

Will you let anybody shake your opinion? If you believe that the Defendant(s) is/are liable for the wrongful conduct, will you stick with your opinion?

If you are chosen as a juror in this case will you stand on your own individual analysis of the evidence and not be swayed by any emotions of other jurors?

Do you find it difficult to make up your mind who is right and who is wrong in a family dispute or a problem at the office?

When faced with a difficult decision, would you rather leave it to someone else so you won't be blamed if the wrong decision is made?

If the vote is such in the jury room that you are the only person holding a particular view, will you stand firm in your position and not be swayed by emotion and pressure?

Would you be embarrassed within your family/neighborhood or with your relatives if you brought a finding of liability against the Defendants?

Will you agree not to let political party affiliation cloud your judgment of the facts in this case?

Assuming that some loved one of yours were seeking compensation for violation of Civil Rights and failure of a Police Officer and/or the Polices to act reasonably, which caused injury and pain and suffering, would you feel satisfied with ten jurors of the same mind as yours to stand judgment in the case of your friend or loved one?

Is there anything that has been said about this case that creates in your own mind about whether you could be fair and impartial?

Would you feel embarrassed with and among your co-workers if you brought a verdict against the a police officer and/or the Suffolk County Police Department in this case, saying they violated the rights and used unreasonable force against Plaintiff?

Suffolk County Police's Officers Liability

Does anyone feel that they will be hesitant in rendering a full, fair and complete verdict because of some feeling that it may affect the County of Suffolk financially?

This is a lawsuit brought by a private citizen against certain police officers of the County of Suffolk alleging he was mistreated when they responded to a call made by another

Officer. Do you feel that citizens who believe they have been treated illegally and unfairly should not bring suit against the wrong doers?

Do you believe that a person who complains that he or she has been a victim of constitutional violations is only trying to get attention?

Do you disapprove of the legal principle that the Plaintiff may recover damages from the Defendant if it is proved by the preponderance of the evidence that the Defendant deprived Plaintiff of rights protected by the Constitution and laws of the United States?

Do you feel that people should be compensated for the deprivation of their civil and legal rights?

Does any member of the jury hold the belief that mental anguish, conscious pain and suffering, fear, embarrassment, humiliation, if proved by the evidence, should not be compensated for in money damages?

If, after hearing the evidence and the instructions of the Judge, you find that the Defendant(s) had wrongfully injured the Plaintiff, would you hesitate to make them pay money damages?

If the Judge were to instruct you that such compensation in the form of a substantial amount was proper under the law, would you have any hesitation about making such an award if the evidence warranted and supported it?

Is there any member of the jury who has a belief, now, without having heard any evidence of the law, that Defendants should not be held responsible for the actions complained of even if the claims of the Plaintiff are proven?

Is there any monetary figure which you believe, in your mind, is too high, that you could not agree to award Plaintiff despite what the evidence supported and the Judge tells you?

Do you believe that a Police in a uniform, such as a police officer, is capable of acting wrongfully toward an individual and taking action to try and cover it up?

Do you believe that a police officer would not tell the truth in order to cover up for a wrong done by him/herself and/or another officer?

Do you believe that a person who complains that he or she has been a victim of mistreatment by police officers:

Is only trying to get attention?

Is actually trying to cover up for his/her failures?

Is trying to discredit the police officers?

Would any of the relationships you have mentioned cause you to sympathize with, give greater credibility to, or in any manner favor the Defendants because they, too, are law

enforcement officers?

Do you think that members of the Police's Department should be given the benefit of a doubt when their conduct is challenged and there is a dispute arising out of their conduct?

Can you treat County of Suffolk officials and personnel from the Suffolk County Police's Department the same as you treat the individuals and other persons to this action?

Credibility of Witnesses

Would you have any problem with the law that says that a person who takes the witness stand, regardless of his or her profession, has equal dignity with any other person who takes the witness stand?

If the Plaintiff is unable to testify in this case, but statements of hers are provided to you, would you give those statements the same credence that you would give to any other witness?

Do you think that a person can be scared/frightened/coerced into giving testimony, directly/indirectly; and will you weigh all factors regarding an individual to determine whether the individual might be giving testimony which s/he believes to be true but which is indirectly or directly given in support of a position because of other factors such as interrelationships/mistaken testimony?

Privilege, Racism, Due Process and Fairness:

Have you heard of incidents of violence or threats of violence that are based on racial prejudice or hatred?

What is your initial reaction when you hear a claim of racism, racial prejudice or threats against persons because of their race?

Have you heard of incidents of violence or threats of violence that are based on gender or race?

What is your initial reaction when you hear a claim of discrimination, gender bias or threats against persons because of their race?

Is there anything that has been said about this case, racial issues, Hispanic-Americans, African-Americans or Suffolk County, Suffolk County Police or any of their related agencies, that creates in your own mind a question about whether you could be fair and impartial?

Would you give more credence to the testimony of a white person than you would to the testimony of an African-American?

Do you feel that jurors give greater credibility to witnesses who are of the same racial or ethnic group as they are?

Do you think that a person can be severely injured by work place discrimination?

Do you think that there is such a thing as White Privilege in the United States?

What does that term "White Privilege" mean to you?

Does talking about race and race relations upset, bother or make you feel uneasy?

Have you seen, experienced or learned of situations where Black or Hispanic people or a Black or Hispanic person is treated differently than a white person because of their skin color?

If you are white, would you want to be treated in the same manner that you have seen Black People or Hispanic People treated?

Have you ever heard the term implicit bias?

What does that term "implicit bias" mean to you?

Do you believe that there can be implicit bias where people have an automatic negative reaction to someone of a different race or ethnicity than one's own?

Do you believe that it is possible for an employer to try and harm an employee after he raises claims of discrimination?

Does discussing issues related to employment discrimination based on race create any level of discomfort or uneasiness for you?

Does discussing issues related to retaliation in employment based on race create any level of discomfort or uneasiness for you?

Does discussing issues related to a hostile work environment in employment based on race create any level of discomfort or uneasiness for you?

With whom, if anyone, have you discussed issues relating to race in the work place?

Do you believe that racially charged jokes in the workplace are problematic?

Do you believe that race and different treatment based on a person's race is no longer an issue that we need to address in our society?

Once a person experiences racial discrimination, do you think that the person should just get over it?

Once a person experiences retaliation based on race, do you think that the person should just get over it?

Once a person experiences a hostile work environment, do you think that the person should just get over it?

If you have any doubt or question concerning these very important matters, then you are asked to raise your hand at the time of questioning, and call it to the attention of the Court. If you have such a feeling or concern that you cannot be fair and impartial are you willing to advise the Court?

Due Process and Fairness:

The Due Process and Equal Protection clauses of the United States Constitution guarantee that all people be treated equally and fairly in a court of law without regard to issues of race, gender, creed, color, religion, sexual orientation, gender identity, citizenship or nationality. The plaintiff is a Hispanic man and his attorneys in this case are African American persons. Prospective jurors may have prejudices or sympathies. Some of you may have had unpleasant experiences that may lead you to have strong feelings concerning certain groups or classes of people, but you must agree that neither prejudice nor sympathy can be allowed to interfere with your receipt of evidence nor your deliberation in the jury room.

It would be unfair to the parties and contrary to the letter and spirit of American law for you to sit on this jury if any one of you feels that you are unable to evaluate the issues in this case without regard to race, creed, gender, religion or color as I have indicated. If any of you feel that you will be unable to truly and fairly reason, then it would be unfair and wrong for you to remain on this panel. Therefore, I ask each of you whether you feel that you can fairly and impartially judge the issues of this case, and if you have any doubt or question concerning these very important matters, then I ask that you raise your hand and call that to my attention. It is urgent that you do so, so that the parties to this proceeding may have a fair trial.

Dated: Hempstead, New York
June 22, 2023

Respectfully submitted,

LAW OFFICES OF
FREDERICK K. BREWINGTON

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